

199—7.1(17A,474,476) Scope and applicability.

7.1(1) This chapter applies to contested case proceedings, investigations, and other hearings conducted by the board or a presiding officer, unless such proceedings, investigations, and hearings are excepted below, otherwise ordered in any proceeding if reasonably necessary to fulfill the objectives of the proceeding, or are subject to special rules or procedures that may be adopted in specific circumstances. If there are no other applicable procedural rules, this chapter applies to other types of agency action, unless the board or presiding officer orders otherwise.

7.1(2) Additional rules applicable only to rate cases, tariff filings, and rate regulation election by rural electric cooperatives are contained in 199—Chapter 26.

7.1(3) With the exception of rules 7.22(17A,476) (ex parte communications), 7.26(17A,476) (appeals from a proposed decision of a presiding officer), and 7.27(17A,476) (rehearing and reconsideration), none of these procedures shall apply to electric transmission line hearings under Iowa Code chapter 478 and 199—Chapter 11 or to pipeline or underground gas storage hearings under Iowa Code chapter 479 or 479B and 199—Chapters 10 and 13. Procedural rules applicable to these proceedings are found in the respective chapters.

7.1(4) Notice of inquiry dockets. The board may issue a notice of inquiry and establish a docket through which the inquiry can be processed. The procedural rules in this chapter shall not apply to these dockets. Instead, the procedures for a notice of inquiry docket shall be specified in the initiating order and shall be subject to change by subsequent order or ruling by the board or the assigned inquiry docket manager. The procedures may include some or all of these procedural rules.

7.1(5) Reorganizations. Procedural rules applicable to reorganizations are included in 199—32.9(476). In the event the requirements in 199—32.9(476) conflict with the requirements in this chapter, the 199—32.9(476) requirements are controlling.

7.1(6) Discontinuance of service incident to utility property transfer.

a. Scope. This rule applies to discontinuance of utility service pursuant to Iowa Code section 476.20(1), which includes the termination or transfer of the right and duty to provide utility service to a community or part of a community incident to the transfer, by sale or otherwise, except a stock transfer incident to corporate reorganization. This rule does not limit rights or obligations created by other applicable statutes or rules including, but not limited to, the rights and obligations created by Iowa Code sections 476.22 to 476.26. Additional rules applicable to discontinuance of service by local exchange utilities and interexchange utilities are contained at rule 199—22.16(476). Discontinuance of service to individual customers is addressed in rules 199—19.4(476), 20.4(476), 21.4(476), and 22.4(476). Procedures in the event of a sale or transfer of a customer base by a telecommunications carrier are contained in 199—paragraph 22.23(2) “e.”

b. Application. A public utility shall obtain board approval prior to discontinuance of utility service. The public utility shall file an application for permission to discontinue service that includes a summary of the relevant facts and the grounds upon which the application should be granted. When the discontinuance of service is incident to the transfer of utility property, the transferor utility and the transferee shall file a joint application.

c. Approval. Within 30 days after an application is filed, the board shall approve the application or docket the application for further investigation. Failure to act on the application within 30 days will be deemed approval of the application.

d. Contested cases. Contested cases under paragraph “c” shall be completed within four months after date of docketing.

e. Criteria. The application will be granted if the board finds the utility service is no longer necessary, or if the board finds the transferee is ready, willing, and able to provide comparable utility service.

7.1(7) The purpose of these rules is to facilitate the transaction of business before the board and to promote the just resolution of controversies. Consistent with this purpose, the application of any of these rules, unless otherwise required by law, may be waived by the board or presiding officer pursuant to 199—1.3(17A,474,476).

¹**7.1(8)** Authority to issue procedural orders in contested case proceedings, investigations, hearings, and all other dockets and matters before the board when a majority of the board is not available due to emergency, or for the efficient and reasonable conduct of proceedings, is granted to a single board member. If no member of the board is available to issue a procedural order due to emergency, or for the efficient and reasonable conduct of proceedings, the procedural order may be issued by an administrative law judge employed by the board. If an administrative law judge is not available to issue a procedural order due to an emergency, or for the efficient and reasonable conduct of proceedings, a procedural order may be issued by the executive secretary or general counsel of the board.

Procedural orders under this subrule shall be issued only upon the showing of good cause and when the prejudice to a nonmoving party is not great. The procedural order under this subrule shall state that it is issued pursuant to the delegation authority established in 199 IAC 7.1(8) and that the procedural order so issued is subject to review by the board upon its own motion or upon motion by any party or other interested person.

¹ October 18, 2006, effective date of subrule 7.1(8) was delayed 70 days by the Administrative Rules Review Committee at its meeting held October 10, 2006.